



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

CHARLES JOHN HORNACK,

Plaintiff,

vs.

TOWN OF DUNCAN,  
Defendant.

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CIVIL ACTION NO. 7:06-147-HFF-WMC

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ORDER

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This is an action filed under the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* The Plaintiff is proceeding *pro se*. The Magistrate Judge has filed a Report and Recommendation (Report) in which he recommends that this action be dismissed *without prejudice*. For the reasons stated below, the Court will dismiss the action and grant Plaintiff's motion for return of documents.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or may recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed his Report on January 17, 2006, and Plaintiff, on January 27, 2006, notified the Court that he did not object to the Report's conclusions or its recommendation that

the case be dismissed. As a result, in the absence of objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir.1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that the case is **DISMISSED**. The Court **GRANTS** Plaintiff's motion for a return of documents and instructs the Clerk to return the original documents requested in Plaintiff's motion.

**IT IS SO ORDERED.**

Signed this 30th day of January, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd  
HENRY F. FLOYD  
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this Order within **thirty (30)** days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.